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Attorney for Chandra Egan

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

TYLER MILLER, an individual

Plaintiff,

v.

HENRY HEIMULLER, in his official capacity)
as Board Member of the Columbia 9-1-1)
Communications District; BRUCE HOLSEY,)
in his official capacity as Board Member of the)
Columbia 9-1-1 Communications District;)
JEFF FLATT, in his official capacity as Board)
Member of the Columbia 9-1-1)
Communications District; and)
SHELLEY HENNESSY, in her official)
capacity as Board Member of the Columbia 9-)
1-1 Communications District,)

Defendants.

Case No.: 3:23-CV-00293-SI

**NON-PARTY CHANDRA EGAN'S
RESPONSE TO PLAINTIFF'S
MOTION TO COMPEL**

INTRODUCTION

This is an action alleging a First Amendment violation. Plaintiff claims that the Columbia 911 (hereinafter "C911"), board's exclusion of him from personal attendance at public meetings and C911 premises violates his First Amendment rights. Egan is not a defendant in the action and is not alleged to have made the decision to bar plaintiff.

Ms. Egan does not object to producing whatever data exists from her Facebook account,

RESPONSE TO MOTION TO COMPEL:
Miller v. Heimuller, et al.

but does not understand the technical aspect for performing the extraction. This counsel has obtained an estimate of the cost from an IT Company in Portland that commonly performs such work in litigation. Ms. Egan is not a party to this case and should not have to bear the costs for such third-party assistance. Plaintiff likewise refuses to bear these costs and for this reason, Ms. Egan is unable to properly comply with the subpoenas.

For the reasons set forth below, plaintiff's motion should be denied.

MEMORANDUM

Mr. Miller has had numerous disputes with Columbia 911. His repeated and numerous public records requests, threats to sue, and lawsuits have resulted in what is estimated to be thousands, possibly tens of thousands, of documents that mention or relate to Tyler Miller.

Pursuant to F.R.C.P. 45(d)(1)(2)(3), and 45(e)(1)(D), the court can quash or modify a subpoena that subjects a person to undue burden or cost. The request made to Chandra Egan is for a complete copy of her Facebook/Meta profile from January 1, 2016, to the present. Performing such a search is unduly burdensome and requires the assistance of an outside IT vendor, costs of which Ms. Egan should not have to bear as a non-party witness.

This issue was addressed by Judge Beckerman in a companion case filed by plaintiff. Same general issue, same refusal to bear costs. Judge Beckerman's well-reasoned opinion is attached as Exhibit 1 to the Declaration of Ronald w. Downs.

Counsel obtained an estimate from a third-party vendor who commonly performs such extraction in litigated cases in the Portland area. This vendor has provided an estimate of \$2500 for the timeline collection, and \$350 per hour for manual search of text threads and photos. Consistent with Judge Beckerman's opinion, plaintiff should be ordered to pay for such costs.

For all these reasons, plaintiff's motion should either be denied or modified to require

him to pay for the extraction.

Respectfully submitted this 28th day of September 2023.

s/ *Ronald W. Downs*
Ronald W. Downs, OSB#920530
Attorney for Chandra Egan

CERTIFICATE OF SERVICE

I hereby certify that I service the foregoing NON-PARTY CHANDRA EGAN'S RESPONSE TO PLAINTIFF'S MOTION TO COMPEL, on the following party or parties, by the method(s) indicated:

Clifford S. Davidson csdavidson@swlaw.com Drew L. Eyman deyman@swlaw.com Snell & Wilmer LLP 1455 SW Broadway Ste 1750 Portland OR 97201 <i>Of Attorneys for Plaintiff</i>	<input type="checkbox"/> FIRST-CLASS MAIL <input checked="" type="checkbox"/> E-MAIL <input checked="" type="checkbox"/> E-FILING NOTIFICATION
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DATED this 28th day of September 2023.

s/ Ronald W. Downs
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Attorney for Chandra Egan